

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ARTURO MEDINA,

Plaintiff,

-against-

PHIL MELECIO,

Defendant.

23-cv-1495 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

This petition for a writ of habeas corpus was referred to Magistrate Judge Robert W. Lehrburger on March 2, 2023. Dkt. 6. In a Report and Recommendation issued on June 28, 2024, Judge Lehrburger recommended denying the petition after concluding that Medina's claims are meritless. *See* Dkt. 28 at 38.

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report to which no timely objection has been made, however, a district court need only satisfy itself that there is no clear error on the face of the record. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Here, the Report and Recommendation advised petitioner that he had fourteen days to file any objections to the report. Dkt. 28 at 38. The Court extended this deadline to September 23, 2024, Dkt. 30, and again to November 27, 2024, Dkt. 31, but petitioner did not file any objections. Accordingly, petitioner has waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Having found no clear error in Judge Lehrburger's report (indeed, there is no detectable error of any kind), the Court ADOPTS the Report and Recommendation in its entirety and, for the reasons discussed in the report, dismisses Medina's petition. Additionally, because Medina has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, *see* 28 U.S.C. § 2253, and the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, such that permission to proceed *in forma pauperis* is denied.

The Clerk of Court is respectfully directed to terminate this case.

SO ORDERED.

Dated: December 19, 2024  
New York, New York

A handwritten signature in black ink, appearing to read 'Arun Subramanian', is written over a horizontal line.

ARUN SUBRAMANIAN  
United States District Judge